

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2005 FEB -3 P 3:37

05 10218

WGBH EDUCATIONAL FOUNDATION,) Plaintiff,)) v.)) IMAX CORPORATION, and IMAX LTD,) Defendants.)	U.S. DISTRICT COURT DISTRICT OF MASS. Civil Action No. _____ <u>COMPLAINT AND JURY DEMAND</u> <u>MAGISTRATE JUDGE</u> <u>MAB</u> RECEIPT # <u>14</u> AMOUNT \$ <u>14</u> SUMMONS ISSUED <u>Y</u> / <u>0</u> LOCAL RULE 4.1 <u>T</u> WAIVER FORM <u>W</u> MCF ISSUED <u>Y</u> BY DPTY. CLK <u>AM</u> DATE <u>2/3/05</u>
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For its Complaint herein, Plaintiff alleges as follows:

THE PARTIES

1. Plaintiff, WGBH Educational Foundation ("WGBH"), is a charitable not-for-profit Massachusetts corporation having an office and principal place of business at 125 Western Avenue, Boston, Massachusetts 02134.

2. Upon information and belief, Defendant, IMAX Corporation ("IMAX"), is a Canadian corporation headquartered at 2525 Speakman Drive, Mississauga, Ontario L5K 1B1, Canada which does business within the Commonwealth of Massachusetts.

3. Upon information and belief, Defendant, IMAX Ltd. ("IMAX Ltd.") is a California corporation headquartered at 3003 Exposition Blvd., Santa Monica, California 90404 which does business within the Commonwealth of Massachusetts.

JURISDICTION AND VENUE

4. This is an action under the Copyright Act, 17 U.S.C. §§ 101 et seq., therefore this Court has jurisdiction pursuant to 28 U.S.C. § 1331. Jurisdiction of this Court over this action is also conferred under 28 U.S.C. § 1332 based on diversity of citizenship, with the amount in

controversy in excess of One Hundred Thousand Dollars, exclusive of interest and cost. Venue is proper pursuant to 28 U.S.C. § 1391.

STATEMENT OF FACTS

5. WGBH has been and continues to be a prominent member of the public broadcasting community and the leading producer of programs for public television in the United States. Among the television programs produced by WGBH is the well-known and critically acclaimed science education series, *NOVA*. *NOVA* is the longest-running science series in television, and its programs have been distributed worldwide for over 20 years.

6. WGBH and its *NOVA* science unit also have earned a distinguished reputation in the domestic and international community as the producer of a number of large format feature films, which typically are exhibited at science museums.

7. WGBH has won numerous awards for its large format feature films. Over 23 million viewers have attended WGBH's large format feature films.

8. In December, 1997, WGBH and Defendant IMAX entered into an agreement "on the principle [sic] business terms . . . for the distribution of a new film to be produced by NOVA/WGBH tentatively entitled *Cocos: Island of Sharks*." (the "Agreement".)

9. The Agreement contemplated that WGBH and IMAX subsequently would sign a "long form contract" which would include the terms of the Agreement.

10. The Agreement provided that WGBH would finance and produce the film *Cocos: Island of Sharks* (hereinafter the "Film", "*Island of Sharks*" or "*Sharks*") as a 2-D large format film.

11. The Agreement granted IMAX exclusive worldwide distribution rights to the Film in all large film formats, "based upon a mutually approved prospective Business Plan for an initial five-year period, which Plan will be provided to NOVA/WGBH within 60 days of signing this Agreement."

12. Paragraph 5(f) of the Agreement provided that WGBH would receive all "Producer Net Revenue" from distribution by IMAX of the Film. Under the terms of the Agreement, Producer Net Revenue is the difference between the distributor's share (i.e., IMAX's share) of gross box office revenue ("DSGBO") (i.e., Imax's receipts from licensees of the Film) and particular costs, expenses, fees and recoupments specifically allowed under Paragraph 5 of the Agreement.

13. Costs, expenses, fees, recoupments and any other item not specified in Paragraph 5 of the Agreement are not permitted to be deducted from the DSGBO before payment of the Producer Net Revenue is to be made to WGBH.

14. Paragraph 5(b) of the Agreement limits IMAX from deducting more than 15% from the DSGBO (with the exception only for "prints, sound tracks, protection elements and versioning costs") for purposes of determining monies due WGBH as Producer Net Revenue.

15. Upon information and belief, IMAX has deducted certain distribution expenses, in excess of 15% of DSGBO.

16. Paragraph 5(d) of the Agreement allows IMAX to recoup its distribution advance out of the DSGBO in proportion ("pari passu") to WGBH's investment in the *Sharks* film, which for the purposes of this part of the Agreement was to be capped at \$2,000,000. WGBH, in fact, invested more than this \$2,000,000, and so informed IMAX. Nevertheless, IMAX Corporation

has, upon information and belief, calculated WGBH's investment at \$1,550,000. WGBH has not recouped its investment in the Film, and Imax has refused to make the payments due to WGBH.

17. IMAX has engaged in other activities of self-dealing, inflating costs and other actions inconsistent with its obligations under the Agreement.

18. WGBH is the sole owner of the copyright in and to the film, *Island of Sharks*. WGBH holds the United States copyright registration to the Film, (Registration No. PA 1-083-319), a copy of which is attached to this Complaint as Exhibit A.

19. Upon information and belief, IMAX and/or IMAX Ltd. have, without authorization from WGBH, taken portions of the film, *Island of Sharks*, and used this as part of a visual work for the commercial purpose of promoting their business.

20. Upon information and belief, this unauthorized use is continuing.

21. WGBH is the sole owner of the copyright in and to the film, *Special Effects*. WGBH holds the United States copyright registration to *Special Effects* (Registration No. PA 812-820), a copy of which is attached to this Complaint as Exhibit B.

22. Upon information and belief, IMAX and/or IMAX Ltd. have, without authorization from WGBH, taken portions of the film *Special Effects* and used them as part of a visual work for the commercial purpose of promoting their business.

23. Upon information and belief, this unauthorized use is continuing.

24. Without authorization from WGBH, IMAX also permitted other related entities to copy the film *Island of Sharks*.

25. IMAX, or IMAX Ltd., or one of their subsidiary business entities, or any one of these entities, has distributed the film *Island of Sharks* on VHS cassettes.

26. Neither IMAX nor its subsidiary business entities engaged in the copying and distribution of *Island of Sharks* has fairly compensated WGBH for the exploitation of the film on VHS cassettes.

FIRST COUNT
Breach of Contract

27. Plaintiff repeats and incorporates by reference the allegations contained in Paragraphs 1 through 26 of this Complaint.
28. WGBH has performed its obligations under the Agreement.
29. IMAX has breached the Agreement in that, among other things, it
- a) failed to provide WGBH with a Business Plan as called for in the Agreement;
 - b) failed to credit WGBH's investment at \$2,000,000 for purposes of calculating *pari passu* returns, thereby reducing WGBH's *pari passu* recoupment of its investment in the Film, and reducing WGBH's Producer Net Revenue;
 - c) deducted, as on-going distribution expenses, sums in excess of 15% of DSGBO, thereby reducing WGBH's Producer Net Revenue;
 - d) failed to deliver to WGBH documentation to support certain distribution expenses deducted by IMAX; and
 - e) allowed the unauthorized copying and distribution of the Film and otherwise breached the Agreement.
30. WGBH has been damaged by IMAX's breaches of contract.

SECOND COUNT
Breach of Implied Covenant of Good Faith and Fair Dealing

31. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 30 of this Complaint.
32. Implied in every contract is a covenant of good faith and fair dealing. In particular such a covenant is strictly enforced in a contract granting exclusive distribution rights.
33. Upon information and belief, IMAX purchased prints and soundtracks of the Film, in excessive quantity, from a wholly owned subsidiary and charged such purchases as distribution expenses against WGBH's recoupment of its investment and against WGBH's share of Producer Net Revenue.
34. Upon information and belief, IMAX did not use good faith efforts to maximize DGSBO by making cost-effective expenditures of other distribution expenses, in disregard of its fiduciary obligations to WGBH and in disregard of good business practices.
35. As set forth above, IMAX has breached its implied covenant of good faith and fair dealing.
36. All of the actions alleged in this Count have caused, and will continue to cause, Plaintiff WGBH irreparable harm for which there is no adequate remedy at law.

THIRD COUNT
Breach of Fiduciary Duty

37. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 36 of this Complaint.
38. As set forth above, IMAX has breached its fiduciary duties by, among other things, failing to use its efforts to exploit the exclusive distribution of the Film and otherwise engaging in self-dealing to the detriment of WGBH.

39. The actions by IMAX in the course of its dealings with the Film and as averred elsewhere in this Complaint, constitute a breach of IMAX's fiduciary duties concerning using its efforts to exploit the license and not to engage in self-dealing to the detriment of WGBH.

40. All of the actions alleged in this Count have caused, and will continue to cause, Plaintiff WGBH irreparable harm for which there is no adequate remedy at law.

FOURTH COUNT
Unfair and Deceptive Business Practices

41. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 40 of this Complaint.

42. IMAX Corporation's actions and failure to act, as set forth above, all constitute unfair and deceptive business acts and practices in violation of Massachusetts General Laws Chapter 93A ("Chapter 93A").

43. IMAX Corporation's unfair and deceptive business acts and practices constitute knowing and willful violations of Chapter 93A.

44. All of the actions alleged in this Count have caused, and will continue to cause, WGBH harm.

FIFTH COUNT
Copyright Infringement -- *Island of Sharks* Film

45. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 44 of this Complaint.

46. IMAX Corporation's unauthorized uses of, and IMAX Corporation's authorization of its controlled entity or other parties to use, portions of WGBH's copyrighted film, *Island of Sharks*, constitutes a knowing and willful violation of WGBH's copyright in and to the film, under 17 U.S.C. § 501, et seq.

SIXTH COUNT
Unjust Enrichment

47. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 46 of this Complaint.

48. IMAX's and its related entities' (including IMAX Ltd.) exploitation and distribution of VHS cassettes of the film *Island of Sharks* without a proper accounting and payment to WGBH of a just license fee, and its use of a clip from the Film and from the film *Special Effects*, for its own commercial self-promotion, is without right, and they have unjustly enriched themselves by their actions.

SEVENTH COUNT -- AS AGAINST IMAX LTD
Copyright Infringement -- *Island of Sharks* Film

49. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 48 of this Complaint.

50. Defendant IMAX Ltd.'s unauthorized uses of WGBH's copyrighted film, *Island of Sharks*, constitutes a knowing and willful violation of WGBH's copyright in and to the film, under 17 U.S.C. § 501, et seq.

EIGHTH COUNT
Copyright Infringement -- *Special Effects* Film

51. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 50 of this Complaint.

52. IMAX's unauthorized uses of WGBH's copyrighted film, *Special Effects* constitutes a knowing and willful violation of WGBH's copyright in and to the film, under 17 U.S.C. § 501, et seq.

NINTH COUNT
Copyright Infringement – *Special Effects* Film

53. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 52 of this Complaint.
54. Defendant IMAX Ltd.’s unauthorized uses of WGBH’s copyrighted film – *Special Effects* constitutes a knowing and willful violations of WGBH’s copyright in and to the film under 17 U.S.C. § 501, et seq.

TENTH COUNT
Declaratory Judgment

55. Plaintiff repeats and incorporates by reference the allegations set forth in paragraphs 1 through 54 of this Complaint.
56. There is an actual and justifiable controversy between the parties concerning material breaches of the Agreement by the defendants. As a result of these material breaches WGBH asserts that it has the right to terminate the Agreement. WGBH seeks a declaration that it has the right to terminate the Agreement and that all of the rights granted to defendants therein revert to WGBH.

RELIEF AND REMEDIES SOUGHT

Wherefore, WGBH respectfully requests that this Court:

- i. Order an accounting performed at the Defendants’ cost, and that IMAX Corporation pay all such amounts owed under the Agreement based on that accounting;
- ii. Award damages for Defendants’ unlawful conduct;
- iii. Award double or treble damages for Defendants’ knowing and willful violations of Chapter 93A;

- iv. Enter an order that the Agreement be terminated and all distribution and other rights revert to WGBH;
- v. Award as damages all profits made by each defendant from any unauthorized distribution, licensing, sale or any other exploitation of any of the films;
- vi. Award statutory damages and attorneys' fees against each defendant under Copyright law, or in the alternative award actual damages against each defendant for copyright infringement;
- vii. Enter injunctive relief to cease and desist from exhibiting or using WGBH's copyrighted material and to return all master material and other copies of such material to WGBH;
- viii. Enter injunctive relief by ordering each defendant and any person or entity under its control to destroy all infringing material;
- ix. Order each defendant to indemnify WGBH from any third party claims arising out of any defendant's unauthorized use of WGBH's material;
- x. Award WGBH its costs, expenses, and attorneys' fees; and
- xi. Grant such other and further relief as the Court may deem just, equitable, and proper under the circumstances.

JURY DEMAND

WGBH demands trial of its claims by jury.

Respectfully submitted,

WGBH EDUCATIONAL FOUNDATION
By its attorneys,


H. Joseph Hameline (BBO #218710)

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.

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Boston, MA 02111

Tel.: 617-542-6000

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OF COUNSEL:

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Boston, MA 02134

Tel. (617) 300-4405

Fax: (617) 300-1014

eric_brass@wgbh.org

Dated: February 2, 2005

LIT 1494055v2

FEB. 3. 2005 10:50AM WGBH LEGAL DEPT

CERTIFICATE OF REGISTRATION

This Certificate Issued under the seal of the Copyright Office In accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

NO. 826 PA. 4
For a Work of the Performing Arts
UNITED STATES COPYRIGHT OFFICE

PA 1-003-319

EFFECTIVE DATE OF REGISTRATION

Sept 24, 2002

Month Day Year

1**TITLE OF THIS WORK ▼**

"Island of the Sharks"

REGISTER OF COPYRIGHTS

'ARATE CONTINUATION SHEET.

United States of America

PREVIOUS OR ALTERNATIVE TITLES ▼

N/A

NATURE OF THIS WORK ▼ See instructions

large format motion picture

2**a NAME OF AUTHOR ▼**
WGBH Educational Foundation

Was this contribution to the work a "work made for hire"?

 Yes No**AUTHOR'S NATIONALITY OR DOMICILE**
Name of CountryOR Citizen of USA
Domiciled in**DATES OF BIRTH AND DEATH**
Year Born ▼ Year Died ▼**b WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**

Anonymous?

 Yes No

Pseudonymous?

 Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire," check "Yes" in the space provided, give " " employee, other .on for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

c NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼**b NAME OF AUTHOR ▼**
Howard Hall Productions**DATES OF BIRTH AND DEATH**
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

 Yes No**AUTHOR'S NATIONALITY OR DOMICILE**
Name of CountryOR Citizen of USA
Domiciled in**b WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**

Anonymous?

 Yes No

Pseudonymous?

 Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

c NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼**b NAME OF AUTHOR ▼****DATES OF BIRTH AND DEATH**
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

 Yes No**AUTHOR'S NATIONALITY OR DOMICILE**
Name of CountryOR Citizen of USA
Domiciled in**b WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**

Anonymous?

 Yes No

Pseudonymous?

 Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

c NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼**3****a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED**
1999

This information must be given in all cases.

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information ONLY if this work has been published.
Month ▶ April Day ▶ 21 Year ▶ 1999
USA Nation

4
See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

WGBH Educational Foundation
125 Western Avenue
Boston, MA 02134

APPLICATION RECEIVED

SEP 24 2001

ONE DEPOSIT RECEIVED

SEP 24 2001

TWO DEPOSITS RECEIVED**FUNDS RECEIVED**

SEP 24 2001

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Page 1 of _____ pages

MORE ON BACK ▶ • Complete all applicable spaces (numbers 5-8) on the reverse side of this page.
 • See detailed instructions.
 • Sign the form at line 8.

FEB. 3. 2005 10:51AM WGBH LEGAL DEPT

EXAMINED BY NO. 826 P.5

FOR

CHECKED BY

CORRESPONDENCE	Fi
<input type="checkbox"/> Yes	OPY
	OFF
	UR
	ON

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.**PREVIOUS REGISTRATION** Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office? Yes No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) If your answer is "no," go to space 7.

- a. This is the first published edition of a work previously registered in unpublished form.
- b. This is the first application submitted by this author as copyright claimant.
- c. This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number Year of Registration **DERIVATIVE WORK OR COMPILED** Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

a

See instruc
before com
this space.**Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

All other cinematographic material.

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.Name Account Number

WGBH Educational Foundation

DA 043478

a

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP

Michelle Daughtry
 WGBH Educational Foundation
 125 Western Avenue
 Boston, MA 02134

b

Area code and daytime telephone number (617 , 300-4351Fax number (617 , 300-1014Email mld@wgbh.org**CERTIFICATION*** I, the undersigned, hereby certify that I am theCheck only one

- | |
|--|
| <input type="checkbox"/> author |
| <input type="checkbox"/> other copyright claimant |
| <input type="checkbox"/> owner of exclusive right(s) |
| <input checked="" type="checkbox"/> authorized agent of <u>WGBH Educational Foundation</u> |
- Name of author or other copyright claimant, or owner of exclusive right(s)

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Michelle Daughtry

Date 1/18/01Handwritten signature (X) *x Michelle Daughtry*

Certificate will be mailed in window envelope to this address:

Name <input type="text"/> Michelle Daughtry
WGBH Educational Foundation
Number/Street/Apt <input type="text"/> 125 Western Avenue
City/State/ZIP <input type="text"/> Boston, MA 02134

• Completed all necessary spaces
• Sign your application in space 8
• Print clearly in black ink
1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material
4. Payment of filing fee

As of July 1, 1985
The filing fee is \$30
Form PA is \$30

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000

9

*17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 406, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

FEB. 3, 2005 10:49AM WGBH, LEGAL DEPT

CERTIFICATE OF REGISTRATION

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

FORM NO. 826A P.2
For a Work of the Performing Arts
UNITED STATES COPYRIGHT OFFICE

PA 812-820

EFFECTIVE DATE OF REGISTRATION

AUG 21 1996

Month

Day

Year

REGISTER OF COPYRIGHTS

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

SPECIAL EFFECTS

PREVIOUS OR ALTERNATIVE TITLES ▼

N/A

NATURE OF THIS WORK ▼ See instructions

Motion Picture

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

2 a WGBH Educational Foundation

Was this contribution to the work a "work made for hire"?

 Yes
 No

AUTHOR'S NATIONALITY OR DOMICILE

Name or Country

OR Citizen of ▶ U.S.A.
Domiciled in ▶ U.S.A.

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

If the answer to either of these questions is "Yes," see detailed instructions.

Anonymous? Yes NoPseudonymous? Yes No

NOTE

Under the law,
the "author" of
a work made

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

Entire work except as noted in Section six

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

 Yes
 No

AUTHOR'S NATIONALITY OR DOMICILE

Name or Country

OR Citizen of ▶
Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

If the answer to either of these questions is "Yes," see detailed instructions.

Anonymous? Yes NoPseudonymous? Yes No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

 Yes
 No

AUTHOR'S NATIONALITY OR DOMICILE

Name or Country

OR Citizen of ▶
Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

If the answer to either of these questions is "Yes," see detailed instructions.

Anonymous? Yes NoPseudonymous? Yes No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

This information must be given in all cases.
1996

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published. Month ▶ July Day ▶ 4 Year ▶ 1996

Name

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

WGBH Educational Foundation
125 Western Avenue
Boston, Ma 02134

APPLICATION RECEIVED

AUG 21 1996

ONE DEPOSIT RECEIVED

AUG 21 1996

3/4" VTL

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

See instructions before completing this space.

DO NOT WRITE HERE
OFFICE USE ONLYMORE ON BACK ▶ Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
See detailed instructions.

- Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2

FEB. 3. 2005 10:50AM WGL, LEGAL DEPT

CHECKED BY

CANT NO. 826-TP.3

CORRESPONDENCE
Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

 Yes No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼a. This is the first published edition of a work previously registered in unpublished form.b. This is the first application submitted by this author as copyright claimant.c. This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number ▼

Year of Registration ▼

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

6

music, theme music, stock footage, stills

See instructions
before completing
this space.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

All other cinematographic material

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼ Account Number ▼

7

WGBH Educational Foundation

DA 043478

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Michelle Daughtry

Be sure to
give your
daytime phone
number

WGBH Educational Foundation

125 Western Avenue

Boston, MA 02134

Area Code and Telephone Number ▶ (617) 492-2777 Ext. 4351

8

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one ▼

 author other copyright claimant owner of exclusive right(s) authorized agent of WGBH Educational Foundation

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made
by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▶ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Michelle Daughtry

date ▶ 8/16/04

9

Handwritten signature (X) ▼

*Michelle Daughtry*MAIL
CERTIFI-
cate TOName ▶ Michelle Daughtry
WGBH Educational FoundationCertificate
will be
mailed in
window
envelopeNumber/Street/Apartment Number ▶
125 Western Avenue
City/State/ZIP ▶
Boston, MA 02134

RECOMMENDED
 Complete all necessary spaces
 Sign your application in space 6
 PAYABLE TO THE CARRIER
 IN THE NAME OF THE CARRIER
 1. Application form
 2. Nonrefundable \$25 filing fee
 In check or money order
 payable to Register of Copyrights
 3. Deposit material
 CANCELLATION
 Register of Copyrights
 Library of Congress
 Washington, D.C. 20412

The Copyright Office
 has the authority to re-
 lease any or all information
 contained in its records
 upon payment of an appropriate
 fee. Because of changes
 in the Consumer Price
 Index, the filing fee for
 deposit material is due in 1996.
 Please contact the
 Copyright Office after
 May 1996 for information
 on filing fees and schedules.

*17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

February 1993—120,000

U.S. GOVERNMENT PRINTING OFFICE: 1993-342-581 60-502

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
IN CLERKS OFFICE

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) WGBH Educational Foundation v. IMAX Corporation 2005 FEB -3 P 3:37

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(I)). U.S. DISTRICT COURT DISTRICT OF MASS.

I. 160, 410, 470, R23, REGARDLESS OF NATURE OF SUIT. 

II. 195, 368, 400, 440, 441-444, 540, 550, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 100 or AO 121 for patent, trademark or copyright cases 

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891. 

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900. 

V. 150, 152, 153. 

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)). None 

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? YES NO 

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS EFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403) YES NO 

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? (SEE 28 USC 2403) YES NO 

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? YES NO 

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) (SEE LOCAL RULE 40.1(C)). YES NO 

OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? - (SEE LOCAL RULE 40.1(D)). YES NO 

8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES NO 

(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE? N/A

9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? Boston

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE
CENTRAL SECTION YES NO OR WESTERN SECTION YES NO 

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME

H. Joseph Hameline

ADDRESS

One Financial Center, Boston, MA 02111

TELEPHONE NO.

617-348-1651

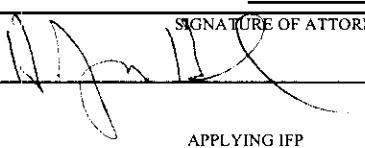
JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FEDERAL
CLERKS OFFICE

I. (a) PLAINTIFFS WGBH EDUCATIONAL FOUNDATION		DEFENDANTS IMAX CORPORATION and IMAX LTD P 3:37																								
(b) County of Residence of First Listed Plaintiff <u>SUFFOLK</u> (EXCEPT IN U.S. PLAINTIFF CASES)		County of Residence of First Listed Defendant <u>ONTARIO, CANADA</u> (IN U.S. PLAINTIFF CASES ONLY)																								
(c) Attorney's (Firm Name, Address, and Telephone Number) H. Joseph Hameline, BBO #218710, Mintz Levin, et al., One Financial Center, Boston, MA 02111; Tel. No. 617-542-6000		NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.																								
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input type="checkbox"/> PTF <input type="checkbox"/> DEF <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State																							
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State																							
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation																							
IV. NATURE OF SUIT (Place an "X" in One Box Only)		FORFEITURE/PENALTY																								
<table border="1"> <tr> <td>CONTRACT</td> <td>TORTS</td> </tr> <tr> <td> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise </td> <td> PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td> PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. 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Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act </td> <td> <input type="checkbox"/> 810 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) </td> </tr> <tr> <td colspan="2"></td> <td>FEDERAL TAX SUITS</td> </tr> <tr> <td colspan="2"></td> <td> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 </td> </tr> </table>		PROPERTY RIGHTS	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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V. ORIGIN (Place an "X" in One Box Only)	Appeal to District Judge from Magistrate Judgment																									
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7																				
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Copyright Act, 17 U.S.C., Sections 101, et. seq.																										
Brief description of cause: Copyright Infringement																										
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23		DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No																					
VIII. RELATED CASE(S) IF ANY		(See instructions):		JUDGE	DOCKET NUMBER																					

DATE 02/03/2005	SIGNATURE OF ATTORNEY OF RECORD 	
FOR OFFICE USE ONLY		
RECEIPT #	AMOUNT	APPLYING IFP
JUDGE	MAG. JUDGE	